

## ARTICLE 14. TITLE INSURANCE

### Subarticle 1 CONTROLLED BUSINESS SOURCE

#### Section 2555. Authority and Effective Date.

These regulations are promulgated pursuant to the authority granted to the Insurance Commissioner by Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 of the Insurance Code and shall be effective on January 1, 2009.

Note: Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal. 3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

#### Section 2555.1. Purpose.

The purpose of these regulations is to set forth the rules and procedures necessary to promote the regulation of the business of title insurance emanating from controlled business sources so that competition in the title industry is enhanced, expectations for compliance by title insurers and underwritten title companies are clarified, and regulatory enforcement efforts are streamlined.

Note: Reference: Insurance Code sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921.  
Authority cited: Sections 720, 790.10, 791.19, 12389, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal. 3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

#### Section 2555.12. Definitions.

For purposes of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code, the following definitions shall apply:

(a) "Affiliate" shall mean a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a title insurer, controlled escrow company or underwritten title company;

(b) "Binder" shall mean a report furnished in connection with an application for title insurance and an offer to issue a title policy;

(c) "Commitment" shall mean a report furnished in connection with an application for title insurance and an offer to issue a title policy;

(d) "Closed Title Order" shall mean a request for a title insurance policy with terms and conditions based upon a preliminary report, commitment or binder;

(e) "Control" includes the terms "controlling" "controlled by" and "under common control with" and shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, but shall not mean power that is the result of an official position with or corporate office held by such person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than 10 percent of the voting securities of any other person;

(f) "Controlled Business Source" shall mean an affiliate controlling, controlled by or under common control with any title insurer, controlled escrow company or underwritten title company that is acting in the capacity of a principal, lender, representative or agent of any of the parties to the underlying transaction or any other person or entity who has entered into an agreement, written or otherwise, whereby title orders are traded for purposes of compliance with Insurance Code section 12396 through 12399, inclusive;

(g) "Documented" shall mean writings, books, papers, computers and data, including electronic data, made and preserved as a part of the records of the licensee in the regular course of business, that are originals or (1) photostatic copies or reproductions (2) microfilm, microcards, or miniature photographic copies, reprints, or enlargements, (3) any other photographic copies or reproductions, or enlargements thereof sufficient to indicate the source of title orders or title business and whether the source is a controlled business source or a non-controlled business source, which shall be freely accessible for examination by the Insurance Commissioner at the licensee's offices and which shall be maintained by each licensee for a minimum of seven years;

(h) "License" shall mean a certificate or authority for class 4 title insurance, an underwritten title company license, with or without escrow authority, or a securities permit issued to a title insurer, underwritten title company or an applicant for such certificate of authority or license;

(i) "Licensee" shall mean a title insurer or underwritten title company or an applicant for such certificate of authority or license who holds an issued securities permit;

(j) "Non-controlled business source" shall mean a person that is an actual, documented source of title business of the licensee but not a controlled business source;

(k) "Percentage" shall mean in relation to closed title orders, the number of closed title orders deemed to emanate from any and all controlled business sources divided by the total number of closed title orders for the preceding calendar year. "Percentage" shall

mean in relation to title business transacted, the dollars or income deemed to emanate from any and all controlled business sources divided by the total dollars or income for the preceding calendar year;

(l) "Preliminary Report" shall mean a report furnished in connection with an application for title insurance and an offer to issue a title policy;

(m) "Source" shall mean either the controlled business source from which business is deemed to have emanated or the non-controlled business source from which business in fact emanated and is documented;

(n) "Title business" shall mean all title insurance business including issuing title policies, transacting or proposing to transact title insurance, including solicitation, negotiation preliminary to execution of title policies, execution of title policies, insuring and transacting matters subsequent to the execution of a title policy and arising out of the title policy, issuance of preliminary title reports, title commitments, title binders, escrow handling, settlement or closing activities. In the case of a title insurer, the term "title business" shall also include the issuance of an indemnity letter or closing protection letter or other such writing; and

(o) "Title business transacted" shall mean any and all title business actually engaged in by a licensee.

Note: Reference: Insurance Code sections 104, 700, 717, 730 (b) 733 (a), 734, 790.10, 826 (a) (e) and (f), 1215 (a) and (b), 12340.3, 12340.11, 12389 (c), 12389.1, 12389.2, 12396 (a), (b) (1) and (c), 12397 (a) and (d), 12397.5 (a) (b) (c) and (d) , 12397.5 (c), 12398, 12408.5 and 12414.30 and Evidence Code section 1550 (a). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control* 149 Cal.App.2d 702 (1957).

#### Section 2555.13. Applications for license.

##### (A) Intent to actively compete.

All licensee applicants shall indicate their intent to actively compete in the marketplace for title business. For underwritten title company applicants, the marketplace shall mean each California county in which the applicant seeks to conduct title business or does business. For title insurance company applicants, the marketplace shall mean the entire state of California, unless the applicant satisfactorily establishes in its application that the applicant intends only to operate in a region or regions of the state of California. This intent to actively compete for title business shall be established by the applicant's verified business plan, financial projections and if available, financial reports. Failure to

so establish an intent to actively compete shall constitute grounds for denial of the application for license as defined in this subarticle; and

Note: Reference: Insurance Code section 12397. Authority cited: Sections 700, 720, 790.10 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

(B) Intent to limit controlled source business.

Licensee applicants with controlled business source affiliates shall further demonstrate their intent not to rely upon controlled source business for more than fifty percent (50%) of their closed title orders. This demonstration of intent to limit controlled source business shall be established by the applicant's verified business plan, financial projections and if available, financial reports. The applicant's verified business plan, financial projections and any financial reports shall include the percentage of closed title orders and the percentage of title business transacted that are deemed to emanate from controlled business sources by county. Failure to so demonstrate the fifty percent (50%) limitation shall constitute grounds for denial of the application for license as defined in this subarticle.

Note: Reference: Insurance Code sections 12396 (c) and 12397. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

Section 2555.2. Annual Verified Reports.

(A) On or before March 31st of every calendar year, every licensee shall file with the Insurance Commissioner's Rate Specialist Unit located at 300 South Spring Street, Los Angeles, 90013 an executed and verified report under penalty of perjury under the laws of the state of California by the chief executive officer of the licensee or the chief executive officer's designee authorized to execute on behalf of the chief executive officer. Designees shall further verify their authorization to execute the verification under penalty of perjury under the laws of the state of California. Underwritten title company licensees shall also simultaneously transmit a copy of this report to the chief executive officer, or the chief executive officer's designee, of each and every insurer with whom the underwritten title company had an underwriting agreement in force during any part of the prior calendar year. These verified March 31st reports shall contain the information set forth in section 2555.21 and if applicable, 2555.23 of this subarticle; and

Note: Reference: Insurance Code sections 12397.5 (b) and (c), Code of Civil Procedure section 2015.5. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

(B) On or before April 29th of every calendar year, all title insurer licensees shall file with the Insurance Commissioner's Rate Specialist Unit located at 300 South Spring Street, Los Angeles, 90013 reports, executed and verified under penalty of perjury under the laws of the state of California by the chief executive officer of the licensee or the chief executive officer's designee authorized to execute on behalf of the chief executive officer, one for each underwritten title company with whom the title insurer had an underwriting agreement in force during any part of the prior calendar year. Designees shall further verify their authorization to execute the verification under penalty of perjury under the laws of the state of California. These verified April 29th reports shall contain the information set forth in section 2555.22 of this subarticle.

Note: Reference: Insurance Code sections 12397.5 (b) and (c), Code of Civil Procedure section 2015.5. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

2555.21. Underwritten title company and title insurer March 31st reports shall contain the following information for the preceding twelve months ending December 31 on a form approved by the Insurance Commissioner which may be a portion of a larger form approved by the Commissioner: (1) the complete name of each controlled business source (2) the total annual commission or other consideration paid to each controlled business source (3) the total number of closed title orders that emanated from each controlled business source by county (4) the total number of closed title orders by county (5) the total number of closed title orders from non-controlled business sources by county (6) the difference between the total number of closed title orders by county and the total number of closed title orders from non-controlled business sources by county divided by the total number of closed title orders by county and (7) the percentage of closed title orders from controlled business sources.

Note: Reference: Insurance Code sections 12397.5 (b) and (c). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v.*

Garamendi, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal. 3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

2555.22. Title insurer April 29th reports shall contain the following information on a form approved by the Insurance Commissioner which may be a portion of a larger form approved by the Commissioner: (1) the full corporate name of each underwritten title company with whom the title insurer had an underwriting agreement in force during any part of the prior calendar year and (2) shall state one of the following for each named underwritten title company: (a) the underwritten title company's March 31st report has been reviewed and is substantially correct as it pertains to the title insurer's business with the underwritten title company; or (b) the information in the underwritten title company's March 31st report has been reviewed and it is insufficient to enable an opinion to be formed as regards to the report's correctness as it pertains to the title insurer's business with the underwritten title company; or (c) the underwritten title company's March 31st report has been reviewed and is incorrect as it pertains to the title insurer's business with the underwritten title company. Title insurer reports (2) (b) and (c) shall also provide either the correct information as it pertains to the underwritten title company's business with the title insurer or, if the title insurer is not able to provide the correct information, the title insurer shall in the April 29th report provide the identity and location of documents, access to data and names of individuals the Insurance Commissioner may examine regarding these reports.

Note: Reference: Insurance Code sections 12397.5 (a) and (c), 730 (c), 12389 (c), and 12921 (a). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

2555.23. Suspension of March 31st report requirement. Any March 31st report filed after the effective date of these regulations which reports five percent or less of all of its title business transacted emanated from controlled business sources and provides the identity and location of documents, access to data and names of individuals the Insurance Commissioner may examine regarding this five percent or less report, and in the case of an underwritten title company all of whose title insurer(s) April 29th reports contain the statement in section 2555.22 (2) (a) above, shall be relieved of further reporting under this subarticle until such time as the underwritten title company's title business transacted emanating from controlled business sources exceeds five percent, at which time the obligation to report on March 31st shall resume.

Note: Reference: Insurance Code section 12397 (d). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399,

12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

#### Section 2555.3. Maintenance of Records.

(a) Each licensee shall maintain records for a minimum of seven years that are sufficient to document the source of title business transacted. Documented records shall include the complete name and address of the source, any commission or other consideration paid to the source, and whether the source is a controlled business source or a non-controlled business source. Documented records shall also include the total dollars or income earned from each transaction by the licensee, and the total of all income earned for each quarter ending March 31, June 30, September 30 and December 31; and

Note: Reference: Insurance Code sections 12397.5 (a), 12397 and 12408.5 (b). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

(b) Each licensee shall maintain records for a minimum of seven years that are sufficient to document the source of closed title orders. Documented records shall include the complete name and address of the source, any commission or other consideration paid to the source, and whether the source is a controlled business source or a non-controlled business source. Documented records shall also include a count of each closed title order by licensee, and the total number of closed title orders for each quarter ending March 31, June 30, September 30 and December 31.

Note: Reference: Insurance Code sections 12397, 12397.5 (a) and 12408.5 (b). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board* 49 Cal 3d 348 (1989) and *George v. Department of Alcoholic Beverage Control* 149 CalApp2d 702 (1957).

#### Section 2555.31. Submission of Records.

Each licensee shall submit to the Department of Insurance upon written request within twenty days of receipt thereof, or in such other time period as is reasonable under the

circumstances and acceptable to the Insurance Commissioner, records or reports maintained pursuant to this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code.

Note: Reference: Insurance Code section 12397(a). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

#### Section 2555.32. Disclosure of Controlled Business Source Arrangements.

Each licensee shall disclose its controlled business source arrangements in all information generally disseminated to the public in this state, including its internet website and any newspapers or other publications or devices by which the licensee advertises.

Note: Reference: Insurance Code section 790.03 (b). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

#### Section 2555.33. Examinations.

The Insurance Commissioner may, as often as may be reasonable and necessary to determine a licensee's compliance with the standards and requirements of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code and with such other provisions of the Insurance Code applicable to the business of title insurance, examine each licensee. Such examination of a licensee may include a review of the records maintained by each licensee to ascertain the source of title business and the source of closed title orders as set forth in this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code.

Note: Reference: Insurance Code sections 700, 717, 730, 12389 (c) and 12400. Authority cited: Sections 720, 790.10, 791.19, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5, 12414.22, 12414.24 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).



#### Section 2555.4. Enforcement.

(A) Failure of any licensee to comply with any of the requirements of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code shall be grounds for denial of the application for license, the suspension, restriction or revocation in whole or in part of an issued license and an order to cease and desist pursuant to Insurance Code Article 14.5 of Chapter 1, Part 2, Division 1 of the Insurance Code;

Note: Reference: Insurance Code sections 12398, 1065.1, 1065, 1065.3, 1065.7, and 1011 (a) and (e). Authority cited: Sections 700, 717, 720, 790.10, 791.19, 1065.3, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

(B) Every licensee whose failure to comply with any of the requirements of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code constitutes an inducement for the placement or referral of title business in violation of Article 6 of Chapter 1, Part 6, Division 2 of the Insurance Code also shall be liable to the people of the state of California for an amount equal to five times the amount of the commission or unlawful rebate, for a minimum liability of five thousand dollars (\$5,000);

Note: Reference: Insurance Code sections 12389, 12409. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 1065.3, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board* 49 Cal 3d 348 (1989) and *George v. Department of Alcoholic Beverage Control* 149 CalApp2d 702 (1957).

(C) Failure of any licensee to comply with any of the requirements of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code that subjects the licensee to the revocation, suspension, restriction or revocation in whole or in part of an issued license and an order to cease and desist pursuant to Article 14.5 of Chapter 1, Part 2, Division 1 of the Insurance Code shall also be grounds for a money penalty of not to exceed one hundred thousand dollars (\$100,000) upon notice to the licensee of the proposed penalty and an opportunity to be heard;

Note: Reference: Insurance Code sections 12398 and 12926.1. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 1065.3, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

(D) Failure of any licensee to comply with any of the requirements of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code that subjects the licensee to the revocation, suspension, restriction or revocation in whole or in part of an issued license and an order to cease and desist pursuant to Article 14.5 of Chapter 1, Part 2, Division 1 of the Insurance Code shall also be grounds for an increase in the statutory deposit of the licensee as appropriate to secure and protect title insurer licensee's policyholders and beneficiaries and underwritten title company licensee's escrow claimants upon notice to the licensee of the proposed deposit increase and an opportunity to be heard; and

Note: Reference: Insurance Code sections 1065.3, 12350, 12351, 12352, 12353, 12354, 12355, 12389 (b) (2) and 12398. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 1065.3, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

(E) In addition to subparts (A), (B), (C) and (D), failure of any licensee to comply with any final order of the Insurance Commissioner in regards to any of the requirements of this subarticle and Article 4.5 of Chapter 1, Part 6, Division 2 of the Insurance Code shall also be grounds for a money penalty in an amount not to exceed one hundred dollars (\$100), but if such failure to comply with the Insurance Commissioner's final order is with actual knowledge or belief that it is in violation of such order, in an amount not to exceed five thousand dollars (\$5,000).

Note: Reference: Insurance Code sections 12340.9, 12398 and 12414.25. Authority cited: Sections 700, 717, 720, 790.10, 791.19, 1065.3, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v. Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).

#### Section 2555.41. Separability.

If any provision of this subarticle or the application thereof to any person or circumstance is determined to be invalid, the invalidity shall not affect the other provisions or applications of this subarticle, and for this purpose the provisions of this subarticle are separable.

Note: Reference: Insurance Code sections 700, 717, 720, 790.10, 791.19, 1065.3, 12389, 12389.1, 12389.2, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921. Authority cited: Sections 720, 791.19, 1065.3, 12389, 12396, 12397, 12397.5, 12398, 12399, 12408.5 and 12921 Insurance Code. *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994), *McHugh v.*

*Santa Monica Rent Control Board*, 49 Cal.3d 348 (1989) and *George v. Department of Alcoholic Beverage Control*, 149 Cal.App.2d 702 (1957).